

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Policies and Rules Concerning)

Unauthorized Changes of Consumers')

Long Distance Carriers)

CC Docket No. 94-129

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COMMENTS OF GTE

GTE Service Corporation ("GTE"), on behalf of its affiliated domestic telephone operating companies, including GTE Hawaiian Telephone Company Incorporated ("GTE Hawaiian Tel"), submits the following comments regarding the Commission's Notice of Proposed Rulemaking ("NPRM"), FCC 94-292, released on November 10, 1994 in this proceeding. In the NPRM, the Commission seeks comment on various aspects of its proposal to regulate more closely the letters of agency ("LOAs") used to authorize primary interexchange carrier ("PIC") changes and the manner in which interexchange carriers ("IXCs") secure LOAs from new customers. The Commission's goal is to reduce the number of customers whose PICs are changed, without their authorization, through the use of "misleading or confusing" LOAs.¹

¹ NPRM at ¶ 1.

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I. INTRODUCTION

GTE welcomes the Commission's renewed focus on the ever-growing problem of unauthorized PIC changes (also known as "slamming"). In addition to its impact on customers, the phenomenal rise in slamming has created numerous problems for local exchange carriers ("LECs") such as GTE, ranging from strained relations with customers incorrectly blaming GTE for unauthorized PIC changes, to increased costs of doing business resulting from the need to investigate, verify and correct disputed PIC changes.

Although the NPRM is a step toward addressing the problem of slamming, the Commission should be aware that the majority of customers who are slammed never even sign an LOA, misleading or otherwise. Their names are simply included in change orders with others that may otherwise be legitimate. Unfortunately, more clearly defined rules regarding LOAs will not likely deter IXCs willing to engage in this type of behavior.

Although there is clearly a need for stricter rules such as those proposed by the Commission, it is equally important that those willing to disregard the rules be called to task. As the Commission is aware, numerous formal and informal complaints involving allegations of slamming have been filed and remain pending. In order to put teeth into any new rules, these complaints must be resolved and those IXCs engaging in the practice sanctioned sufficiently to deter such conduct by any IXC in the future. Simply put, the Commission must make slamming too expensive a way of doing business. If it is not possible to

reach this point through the complaint process, the Commission should explore procedural alternatives either in this docket or in a new one.

II. THE PROPOSED RULES ADDRESSING THE CONTENT OF THE LOA SHOULD BE REVISED TO REFLECT THAT SOME CUSTOMERS MAY HAVE THE OPTION OF SELECTING MORE THAN ONE LONG DISTANCE CARRIER

The NPRM and the proposed rules are premised on the concept of one PIC per customer. This is most clearly reflected in Section 64.1150(d)(4) of the proposed rules which provides that the LOA must confirm

“that the subscriber understands that only one interexchange carrier may be designated as the subscriber’s primary interexchange carrier for any one telephone number and that selection of multiple carriers will invalidate all such selections;”²

In Hawaii, however, the presubscription process allows for two PIC selections to be made, one for interstate calling and the other for international calling. Although GTE Hawaiian Tel is not represented on the equal access ballot, customers may select GTE Hawaiian Tel as their international carrier of choice after the initial balloting has taken place.³

A requirement that the LOA confirm that only one IXC may be designated as a PIC would create massive confusion on the part of Hawaii customers. For

² Appendix A, p. 2.

³ GTE Hawaiian Tel is unique among interexchange carriers serving Hawaii as a result of the order entered in *U.S. v. GTE Corporation* (1985-1 Trade Cases ¶ 66,354) (D.D.C. 1984) (the “GTE Consent Decree”). Although GTE Hawaiian Tel is authorized to provide interexchange service between its local serving area and points outside the United States, the GTE Consent Decree prohibits it from providing interexchange service from Hawaii to the U.S. Mainland.

example, customers wishing to change only their interstate carrier may later discover that both their interstate and international carriers were changed because the LOA they signed designated only one PIC.⁴ Conversely, because GTE Hawaiian Tel is restricted from providing interstate service, an LOA designating it as the only PIC would not only be misleading, it would be unlawful. Accordingly, GTE Hawaiian Tel requests that the Commission clarify in the LOA rules that subscribers in Hawaii have the option of designating both an interstate and an international carrier, and require IXCs to break out the two options on the LOA.

III. THE LOA SHOULD BE REQUIRED TO BE A SEPARATE DOCUMENT BUT SHOULD NOT BE PROHIBITED FROM INCLUSION WITH SOLICITATION MATERIAL

GTE Hawaiian Tel supports the Commission's proposal to require the LOA as a separate document free of inducements. Customers are enticed by the lure of money and prizes, and are often misled into changing their PICs. If a customer truly wishes to select an IXC based on the prizes, money or gifts it offers, then the customer should have no problem with signing a separate LOA document.

⁴ Such a mandate would also exacerbate the existing problem of IXCs not clarifying during solicitations whether a customer wants only one or both of their carriers changed. GTE has experienced numerous situations in which customers have chosen GTE Hawaiian Tel as their international carrier only to have GTE switched when attempting to change their *interstate* carrier. Because the soliciting carrier does not clarify that it is seeking to provide *both* interstate and international service, the customer often forgets to specify one or the other.

Although GTE Hawaiian Tel supports the LOA being a separate document, it is not in favor of requiring the LOA to be mailed separately. As long as the LOA is separate and clearly identified as the consent document for PIC changes, the customer will be aware of the bottom-line impact of signing it. This should result in a dramatic reduction in the number of customers inadvertently signing LOAs. Thus, there is no compelling reason to increase the cost of soliciting by mail by requiring separate mailings.

IV. PIC CHANGE ORDERS VIA IXC PROVIDED 800 NUMBER

The general public is currently bombarded with promotions and campaigns that incorporate every twist and turn imaginable. The television and radio ads just tell you how “great” the offering is but leave out the critical details. An IXC provided 800 number makes it easy for customers to get the details they need to make an informed decision and conveniently make a PIC change if they so choose. Apparently some of these 800 numbers are also used for verifying PIC changes as well as serving as customer information and sales lines. At a time when companies are closely monitoring their expenses, it would appear reasonable to allow the 800 number to be used for verification purposes, disseminating sales information and placing initial orders.

V. RULES REGARDING REIMBURSEMENTS OR REFUNDS TO SLAMMED CUSTOMERS SHOULD BE TAILORED TO AVOID LEC INVOLVEMENT IN RESOLVING IXC/CUSTOMER DISPUTES

In addressing the issue of refunds or reimbursements to customers who have been slammed, the Commission must keep in mind the unique role played by LECs such as GTE in the overall provision of long distance service. In addition to providing local exchange access to its customers, GTE provides access to IXCs and, for many of them, billing and collection services as well. As such, it acts as a kind of facilitator for both the customer and IXC in connection with long distance service – a role ill-suited for any involvement in IXC/customer billing controversies regarding PICs. Moreover, the inclusion of another party in such controversies would further complicate an already difficult situation.

Accordingly, GTE urges the Commission not to adopt any rules that would place LECs such as GTE in the middle of such disputes, whether as an arbiter, mediator, or otherwise.⁵ These disputes should be resolved directly between the IXC and the customer. Once resolved, the IXC can then instruct the LEC, as its billing agent, on what it is to do in connection with a customer's bill. In addition, the Commission should clarify that although a LEC may act as a billing agent for an IXC, it assumes no liability as such for any charges to a customer slammed by that IXC.

⁵ Of course, GTE has done and will continue to do whatever it can to address the problem internally and to furnish whatever information it can to facilitate the resolution of a particular claim.

VI. CONCLUSION

Subject to the foregoing recommendations, GTE fully supports this effort on the part of the Commission to stem the tide of slamming. The Commission must be aware, however, that the misuse of LOAs is but a small piece of a much larger problem. In the end, the relatively few IXCs responsible for much of the slamming must be made accountable for their conduct. Only by doing this will those IXCs willing to disregard and/or circumvent the rules be brought into line.

Respectfully submitted,
GTE SERVICE CORPORATION,
on behalf of its affiliated domestic
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